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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**

8 Mission Wellness Pharmacy,

No. CV-22-00329-PHX-SPL

9 Petitioner,

**ORDER**

10 vs.

11 Wellpartner LLC,

12 Respondent.  
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15 Before the Court is Petitioner Mission Wellness Pharmacy’s (“Petitioner”) Motion  
16 to File Petition Enforcing Arbitrator’s Hearing Subpoena Under Seal (Doc. 1) and  
17 Memorandum in Support (Doc. 2) thereof. Petitioner requests that the Court: (i) grant the  
18 Motion and order the sealing of Petitioner’s Petition to Enforce Arbitrator’s Hearing  
19 Subpoena (currently lodged at Doc. 3) and (ii) order that all further filings in this case be  
20 submitted under seal. For the following reasons, the Motion will be denied.

21 To overcome the “strong presumption in favor of [public] access,” a party seeking  
22 to seal a judicial record must articulate justifications for sealing—that is, “compelling  
23 reasons supported by specific factual findings”—that outweigh the public policies favoring  
24 disclosure. *See Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1178 (9th Cir.  
25 2006); *see also* LRCiv. 5.6(b) (“Any motion or stipulation to file a document under seal  
26 must set forth a clear statement of the facts and legal authority justifying the filing of the  
27 document under seal.”). A court deciding to seal judicial records must “base its decision  
28 on a compelling reason and articulate the factual basis for its ruling, without relying on

hypothesis or conjecture.” *Kamakana*, 447 F.3d at 1179 (quoting *Hagestad v. Tragesser*, 49 F.3d 1430, 1434 (9th Cir. 1995). “In general, ‘compelling reasons’ sufficient to outweigh the public’s interest in disclosure and justify sealing court records exist when such ‘court files might have become a vehicle for improper purposes,’ such as the use of records to gratify private spite, promote public scandal, circulate libelous statements, or release trade secrets.” *Kamakana*, 447 F.3d at 1179 (citing *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)). “The mere fact that the production of records may lead to a litigant’s embarrassment, incrimination, or exposure to future litigation will not, without more, compel the court to seal its records.” *Id.* (citing *Foltz v. State Farm Mut. Auto. Ins. Co.*, 331 F.3d 1122, 1136 (9th Cir. 2003)).

This Court “generally will not enter an order that gives advance authorization to file documents under seal that are designated for such treatment by parties under a protective order or confidentiality agreement.” LRCiv. 5.6(b). Moreover, a party’s allegation that certain documents are “confidential” or “business information” does not constitute a compelling reason and is therefore insufficient to justify sealing court records containing such documents. *Krause v. Nev. Mut. Ins. Co.*, No. 2:13-cv-00976-APG-CWH, 2013 WL 3776416, at \*5 (D. Nev. July 16, 2013) (citing *Kamakana*, 447 F.3d at 1179 and *F.T.C. v. AMG Servs., Inc.*, No. 2:12-cv-536-GMN-VCF, 2012 WL 3562027 (D. Nev. Aug. 15, 2012)); *see also Kamakana*, 447 F.3d at 1182 (finding that conclusory statements about the content of documents—that they were confidential—did not rise to level of “compelling reasons”).

Here, Petitioner asserts that a seal is necessary because the arbitral subpoena Petitioner seeks to enforce contains references to or directly relates to “proprietary [and sensitive confidential] information including contract agreements, payment and remuneration data, and accounting [and financial] documents generated in connection with those activities.” (Docs. 1 at 2 & 2 at 2–3). Petitioner provides no additional details nor explanation. This Court finds that Petitioner’s position fails to meet the compelling reasons standard because Petitioner has not articulated compelling reasons supported by specific

1 factual findings that outweigh the public’s right of access. Petitioner’s mere references to  
 2 “proprietary” and “sensitive confidential” information are insufficient to merit sealing the  
 3 Petition, let alone the entire case. “Thus, the Court finds no reason why the Motion and  
 4 exhibits (Doc. 1) or the Memorandum in Support [thereof] (Doc. 2) should not be made  
 5 publicly available in full, with only potentially sensitive information (none of which is  
 6 presently identifiable to the Court in the documents that are currently lodged) redacted.”  
 7 *Mission Wellness Pharmacy v. Caremark N.J. Specialty Pharmacy LLC*, No. CV-22-  
 8 00331-PHX-DJH, 2022 WL 657399, at \*2 (D. Ariz. Mar. 4, 2022).

9 The Court also finds that Petitioner has failed to comply with the procedures  
 10 provided by Local Rule of Civil Procedure 5.6(d), including its obligation to confer with  
 11 Wellpartner LLC, prior to filing its Motion to Seal. That section states,

12 Unless otherwise ordered by the Court, if a party wishes to file  
 13 a document that has been designated as confidential by another  
 14 party pursuant to a protective order or confidentiality  
 15 agreement, or if a party wishes to refer in a memorandum or  
 16 other filing to information so designated by another party, the  
 17 submitting party must confer with the designating party about  
 18 the need to file the document (or proposed filing) under seal  
 19 and whether the parties can agree on a stipulation seeking to  
 20 have the document (or proposed filing) filed under seal. If the  
 21 parties are unable to agree on these issues, the submitting party  
 22 must lodge the document (or proposed filing) under seal and  
 23 file and serve a notice of lodging summarizing the parties’  
 24 dispute and setting forth the submitting party’s position,  
 25 accompanied by a certification that the parties have conferred  
 26 in good faith and were unable to agree about whether the  
 document (or proposed filing) should be filed under seal. Within fourteen (14) days after service of the notice, the designating party must file and serve either a notice withdrawing the confidentiality designation or a motion to seal and a supporting memorandum that sets forth the facts and legal authority justifying the filing of the document (or proposed filing) under seal. If the designating party seeks to have the document (or proposed filing) filed under seal, the motion must append (as a separate attachment) a proposed order granting the motion to seal. No response to the motion may be filed. If the designating party does not file a motion or notice as required by this subsection, the Court may enter an order making the document (or proposed filing) part of the public record.

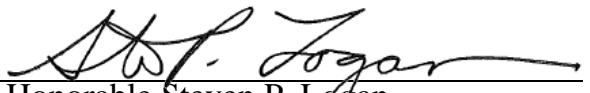
27 LRCiv. 5.6(d).  
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1 Accordingly,

2 **IT IS ORDERED** that the Motion to File Petition Enforcing Arbitrator's Hearing  
3 Subpoena Under Seal (Doc. 1) is **denied**. Pursuant to LRCiv. 5.6(e), the lodged documents  
4 (Doc. 3) will **not** be filed. Petitioner may—within five (5) days of this Order—resubmit  
5 their documents for filing in the public record, or, after conferring with Wellpartner LLC  
6 in good faith, file a notice of lodging in compliance with LRCiv. 5.6(d).

7 **IT IS FURTHER ORDERED** that the Clerk of Court shall **unseal** this case and all  
8 filed documents.

9 Dated this 29th day of March, 2022.

10   
11 Honorable Steven P. Logan  
12 United States District Judge  
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